IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1220 OF 1996

Smt.Malati Ashok Vanjara Petitioner

versus

State of Maharashtra and others Respondents

S.D.Khot, adv. for petitioner.
C.R.Sonawane, AGP for respondents 1 to 3.

CORAM : A.P.SHAH AND
S.C.DHARMADHIKARI, JJ.

DATE : 12th October 2004

PC :

1. This writ petition challenges the order passed by Additional Commissioner, Konkan Division dated 20th January 1996. The petitioner claims to be belonging to Scheduled Tribe "Dubli". It is her case that a caste certificate has been issued on 8th July 1991 certifying her as belonging to this Tribe. It is her grievance that at the instance of respondent no.4, the Additional Commissioner, Konkan Division, Mumbai took cognizance of a complaint and by an ex-parte decision held that she does not belong to the

said Scheduled Tribe and consequently cancelled the caste certificate issued in her favour.

2. After hearing Ms.Khot, learned counsel appearing for petitioner, Mr.Sonawane appearing for respondents 1 to 3 and Mr.Nitin Jamdar for respondent no.4, we are satisfied that the Additional Commissioner could not have cancelled the caste certificate without giving opportunity to the petitioner herein to substantiate her claim as belonging to "Dubli" Scheduled Tribe. The Additional Commissioner was in error in proceeding in absence of petitioner by relying upon submissions made by respondent no.4. The impugned order cannot be sustained and deserves to be set aside on this ground alone.

3. In our view, the matter cannot be now remitted back to the Additional Commissioner in the light of Maharashtra Act No.XXIII of 2001. Considering Sections 3, 6 and 7 of the said Act, the matter will now have to be decided by the Scrutiny Committee set up by the State Government under this Act. The impugned order is, therefore, set aside and the caste certificate of the petitioner is referred to the Scrutiny Committee for verification and scrutiny in accordance with law.

4. The Scrutiny Committee to pass appropriate orders after hearing petitioner and respondent no.4 as expeditiously as possible and in any event within a period of six months from today. Parties to appear before the Scrutiny Committee on 2nd November 2004. Petition disposed of.

(A.P.SHAH, J.)

(S.C.DHARMADHIKARI, J.)